

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE REISSUE APPLICATION OF

LARREN F. JONES ET AL.

PATENT NO: 5,653,048

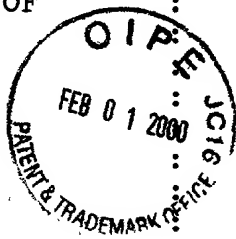
ISSUED: AUGUST 5, 1997

SERIAL NO: 08/554,158

FILED: NOVEMBER 6, 1995

FOR: WEAR ASSEMBLY FOR A DIGGING  
EDGE OF AN EXCAVATOR

ATTY DKT: 51291.81516



JOINT REISSUE APPLICATION DECLARATION

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

We, Larren F. Jones, Robert E. McClanahan, and Hezekiah R. Holland, hereby declare that:

1. Our residences, post office addresses and citizenships are stated below next to our names.

2. We believe that we are the original, first and joint inventors of the subject matter which is described and claimed in United States Patent No. 5,653,048 ("the '048 patent") entitled "Wear Assembly For A Digging Edge of An Excavator," granted August 5, 1997, for which invention we solicit a reissue patent.

3. We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims and all amendments included in this reissue application.

4. We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §§ 1.56(a) and 1.175(a)(7).

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5. We believe the '048 patent to be partially inoperative by reason of claiming less than we had a right to claim in the patent.

6. Claims 1, 34, and 51 recite a boss in a manner more narrow than we had a right to claim. The claim recites that a second surface with a T-shaped coupling structure is remote from the first surface, front and rear bearing faces extend between the two surfaces, and the first surface has a clamping section which wraps around the digging edge of the excavator. The novel mount for the wear member includes a rear structure which is fixed to the excavator, coupled to the wear member and bears against the lock, and a front structure which wraps around the digging edge, irrespective of the particular relationship of the various specified surfaces.

7. Claims 1 and 51 are each directed to a wear assembly which includes, inter alia, a rigid lock received in the opening in the wear member to hold the wear member to the boss. The recitation that the lock has a rigid construction is more narrow than we had a right to claim. The lock is placed within the opening to prevent removal of the wear member from the boss and is provided with an adjustment assembly to tighten the mounting of the wear member on the excavator, regardless of a specific rigid construction of the lock.

8. In addition, the adjustment of the lock, in one aspect of the invention, is attained by adjusting threaded parts of the lock, irrespective of whether the lock has a specific rigid construction.

9. Claim 40 recites a lock member in a manner more narrow

than we had a right to claim. The claim includes a block shaped body having a rigid construction with a front face, a rear face and a pair of side faces. The claim further recites a latch in one of the side faces and an adjustment assembly extending orthogonally to the front and rear faces. The novel lock is adapted to be received into an opening in the wear member to hold the wear member to the boss with an adjustment assembly which selectively tightens the wear member onto the excavator.

10. Claim 47 recites a method which is more narrow than we had a right to claim. This claim recites the use of the adjustment means in removing the wear member from the excavator, but not the use of the adjustment means in mounting the wear member to the excavator.

11. All errors which are being corrected in this reissue application up to the time of filing of this declaration arose without any deceptive intention on our part.

12. We hereby appoint, both jointly and severally, as our attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the following attorneys who are all members of the Bar of the District of Columbia, their registration numbers being listed after their names: Steven P. Schad, Registration No. 32,550; Patricia E. Hong, Registration No. 34,373, William W. Beckett, Registration No. 18,262; Donald W. Banner, Registration No. 17,037; Edward F. McKie, Jr., Registration No. 17,335; Dale H. Hoscheit, Registration No.

19,090; Joseph M. Potenza, Registration No. 28,175; James A. Niegowski, Registration No. 28,331; Joseph M. Skerpon, Registration No. 29,864; Thomas L. Peterson, Registration No. 30,969; Nina L. Medlock, Registration No. 29,673; William J. Fisher, Registration No. 32,133; Thomas H. Jackson, Registration No. 29,808; and Sarah A. Kagan, Registration No. 32,141.

13. All correspondence and telephone communications should be addressed to Banner & Witcoff, Ltd., 1001 G Street, N.W., Eleventh Floor, Washington, D.C. 20001-4597, which is also the address and telephone number of each of the above listed attorneys.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Larren F. Jones  
Larren F. Jones

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Robert E. McClanahan  
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Citizenship: US

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Hezekiah R. Holland

Date: \_\_\_\_\_

Address:

Residence:

Citizenship: US

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10. Claim 47 recites a method which is more narrow than we had a right to claim. This claim recites the use of the adjustment means in removing the wear member from the excavator, but not the use of the adjustment means in mounting the wear member to the excavator.

11. All errors which are being corrected in this reissue application up to the time of filing of this declaration arose without any deceptive intention on our part.

12. We hereby appoint, both jointly and severally, as our attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the following attorneys who are all members of the Bar of the District of Columbia, their registration numbers being listed after their names: Steven P. Schad, Registration No. 32,550; Patricia E. Hong, Registration No. 34,373, William W. Beckett, Registration No. 18,262; Donald W. Banner, Registration No. 17,037; Edward F. McKie, Jr., Registration No. 17,335; Dale H. Hoscheit, Registration No.



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Larren F. Jones

Date: \_\_\_\_\_

Address:

Residence:

Citizenship: US


\_\_\_\_\_  
Robert E. McClanahan

Date: \_\_\_\_\_

Address:

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Hezekiah R. Holland

Date:

11/8/99

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Residence:

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Citizenship: US

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STATEMENT UNDER 37 C.F.R. § 3.73(b)

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

U.S. Patent No. 5,653,048, issued August 5, 1997 and entitled Wear Assembly for a Digging Edge of an Excavator, is owned exclusively by ESCO Corporation by virtue of an assignment of the entire right, title and interest from the inventors, which is recorded at Reel 7777, Frames 407-408.

The undersigned is empowered to sign this statement on behalf of the assignee.

JANUARY 31, 2000  
Date

By: Kenneth M. McCaw, Jr.  
Kenneth M. McCaw, Jr.  
Vice President, General  
Counsel & Secretary

665080-ESCO-660